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of summary jurisdiction by a court of bankruptcy is that either it must take possession of the property through its officers, or the bankrupt himself must be in possession at or after adjudication, the capacity in which he holds being immaterial, or some third party claiming no adverse interest must be in possession. *In re Rathman*, 183 Fed. 913, 106 C. C. A. 253; *In re Smith*, 3 Am. B. R. 95, 110 Fed. 525.

CORPORATIONS—LEGALITY OF INCORPORATION—RIGHT TO ATTACK COLLATERALLY.—The defendants attempted to organize a corporation under a general law authorizing such corporations, but failed to file a copy of their articles of incorporation, with the clerk of the judicial district, as required by the statute. There had been an actual user of this corporate franchise for several years, when the plaintiff sought to hold them liable as partners. *Held*, a de facto corporation had been created and its legal existence cannot be questioned collaterally but only in a direct proceeding brought by the state for that purpose. *Swafford Bros. Dry Goods Co. v. Owen* (Okla.), 133 Pac. 193. See NOTES, p. 236.

EASEMENTS BY PRESCRIPTION—EXTENT OF RIGHT—OBSTRUCTION BY GATES.—Can the owner of a servient estate, now enclosed as agricultural lands, establish and maintain gates at the termini of an easement of way acquired by an adjoining owner of farm lands by prescription, the prescriptive period maturing while the lands were unenclosed woodland, during which no gates or bars were maintained? *Held*, Yes, since the nature of an easement determines its character and not the particular manner of the use that created the right. *Luster v. Garner* (Tenn.), 159 S. W. 604.

This is the view taken by many courts which hold that a gate may be constructed across the way if it is not an unreasonable obstruction to the purpose for which the way has been used. *Henson v. Young*, 4 Lans. (N. Y.) 63; *Hartman v. Fick*, 167 Pa. St. 18, 31 Atl. 342, 46 Am. St. Rep. 658; *Ames v. Shaw*, 82 Me. 379, 19 Atl. 856; *Dyer v. Walker*, 99 Wis. 404, 75 N. W. 79.

Other courts hold that a right of way acquired by prescription is commensurate with and measured by the use, and the owner of the land has no right to do anything which will hinder or obstruct such use. *Shivers v. Shivers*, 32 N. J. Eq. (5 Stew.) 578, affirmed in 35 N. J. Eq. (8 Stew.) 562; *Dudgeon v. Bronson*, 95 Am. St. Rep. 321 (note); *Fankboner v. Corder*, 127 Ind. 164, 26 N. E. 766; *Bolton v. Murphy* (Utah), 127 Pac. 335. The opinions in these cases are far from being strong and show a tendency to follow the courts cited first above.

Where the right of way has arisen by grant, the decisions are practically unanimously in favor of the right of the owner of the servient estate to erect gates across the way where they are reasonably necessary for his protection, since nothing passes as incident to the grant of a right of way over the land of another except what is necessary for its reasonable and proper enjoyment. *Lyman v. Arnold*, 5 Mason (U. S.) 195 Fed. Cas. No. 8,626; *Maxwell v. McAtee*, 9 B. Monroe (Ky.) 20; *McTarrish v. Carroll*, 7 Md. 352, 61 Am. Dec. 353; *Baker v. Frick*, 45 Md.